Supreme Court, U.S.
FILED
SEP 21 1992
OFFICE OF THE CLERK

No. 92-186

In The

SUPREME COURT OF THE UNITED STATES

October Term 1992

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CATHERINE BARBER & AS EXECUTRIX,
Petitioner

versus

SOMERVILLE HOSPITAL,INC.& ASSIGNS;
DR.A.H.FINE,
INTERNAL MEDICINE SERVICES,INC.& ASSIGNS;
VISITING NURSE,INC.& ASSIGNS,
Respondents

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PETITION FOR WRIT OF CERTIORARI
TO THE COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT OR OTHER

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**PETITIONER'S REPLY TO BRIEF OF RESPONDENT VISITING NURSE,INC.,IN OPPOSITION;**

**INTERNAL MEDICINE SERVICES,INC.& ASSIGNS (NO OPPOSITION)**

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Catherine Barber
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BEST AVAILABLE COPY

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Petitioner,Catherine Barber,respectfully requests this Court to grant the Petition for a Writ of Ceriorari and reject the arguments in the "Brief of Respondent,Visiting Nurse,Inc.,In Opposition..". Internal Medicine Services,Inc. and assigns did not file a brief in opposition.

I. Visiting Nurse,Inc.& Assigns:

The opposition brief contains major errors,omissions,distortions and alterations beginning with the caption on the cover readily compared with petitioner's caaption and signals the further errors & omissions to mislead the court. Material omission on the cover & throughout is "and assigns". The petitioner considers this deliberate omission as a violation of Rule 11.

A. Default: When the time to reply to the complaint had expired, petitioner filed Request for Default(Pursuant to MAss.R.Civ.P.55(a)). Petitioner received confirming notice from the Clerk,but default was not entered on the docket, and the clerk refused to correct. Later, the Director of VN sent a letter (with United Way logo, and papers in legal language, and medical records of the ~~from~~ another agency unknown to the peti-

tioner. An attorney later made appearance

No reason was given to remove the default as required by the rules, nor could any reason be given because prior to the date to default the nurse's attorney brother telephoned the petitioner and threatened her. An answer instead of a threat would have saved the case from default. It was judicial error to remove the default, a violation of constitutional right to due process, equal protection;attorney vs. non-attorney,,obstruction of the administration of justice, appearance of collusion,dissemination of privileged records.
The now senior citizen has been harmed in not being able to work in her business The arguments are peripheral to the facts of this case & irrelevant. And,it was error for the courts not to consider the federal questions thus bring the case to the Supreme Court.

B.Treatment RelatedClaims are unknown since discovery was denied.

C.Medical Records:There are no records to date.The issue is not moot, respondent misleads & omits,but even if it were moot,when remanded for assessment of damages with jury, the complaint will be amended for invasion of privacy and dissemination.(Rule 11)(AnotherVN,Inc attorney was reported to post office for a pending criminal offense.)

D.Medical Malpractice Tribunal: Access to one's records is not a tribunal issue and it was error to require a bond to be posted.Discovery may reveal issue/s for a tribunal.

E."And Assigns" requires discovery.

A few issues are argued but the entire case,including interlocutory appeals,was preserved in the AppealsCourt Appendix as also Exhibit/s & nothing was waived.

II.Internal Medicine Services,Inc.& assigns. No opposition.

Request for Default (Pursuant to Mass.R. Civ.P.55(a));was filed and confirming notice was sent by the Clerk. No one has ever made an appearance.The case was incorrectly dismissed & should be remanded for discovery,assessment of damages with jury, unless defendant or court decides to first proceed with criminal assault.

## CONCLUSION

Petitioner requests this Court to grant its Petition and the relief stated therein.

Respectfully submitted,

Catherine Barber

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Dated:Sept.21,1992